

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

LARRY PAYNE,)	
)	
Plaintiff,)	
)	
VS.)	No. 20-1042-JDT-cgc
)	
T. HARRIS, ET AL.,)	
)	
Defendants.)	

ORDER DISMISSING CASE,
CERTIFYING AN APPEAL WOULD NOT BE TAKEN IN GOOD FAITH,
AND DENYING LEAVE TO APPEAL *IN FORMA PAUPERIS*

On October 6, 2020, the Court issued an order dismissing Plaintiff Larry Payne's *pro se* complaint and granting leave to file an amended complaint. (ECF No. 13.) Payne was warned that if he failed to file an amended complaint within twenty-one days, the Court would dismiss the case in its entirety, assess a strike pursuant to 28 U.S.C. § 1915(g), and enter judgment. (*Id.* at PageID 109.)

A copy of the Court's October 6 order was sent to Payne at his address of record but was returned undeliverable on October 16, 2020. (ECF No. 14.) Payne also has not filed an amended complaint, and the time within which to do so has expired. Therefore, this case is DISMISSED with prejudice in its entirety, and judgment will be entered in accordance with the October 6, 2020, order dismissing the original complaint for failure to state a claim on which relief may be granted. Payne is assessed his second strike under

§ 1915(g).¹ This strike shall take effect when judgment is entered. *See Coleman v. Tollefson*, 135 S. Ct. 1759, 1763-64 (2015).

It is CERTIFIED, pursuant to 28 U.S.C. § 1915(a)(3) and Federal Rule of Appellate Procedure 24(a), that any appeal in this matter by Payne would not be taken in good faith. Leave to appeal *in forma pauperis* is DENIED.

The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ **James D. Todd**
JAMES D. TODD
UNITED STATES DISTRICT JUDGE

¹ Payne previously filed *Payne v. Brantley, et al.*, No. 1:14-cv-0055 (M.D. Tenn. May 15, 2014) (dismissed for failure to state a claim).